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BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE
ON APPEAL TO THE BOARD OF APPEALS

In re Application of: Alexei Borisovich Bogatyrev) Date: September 11, 2007
Serial No: 10/537,274)
Filed: 05/28/2005) Group Art Unit: 3721
For: Device and Method for Banding) Examiner: Stephen Francis Gerrity
Stacks of Bank Notes)
)

CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, P.O. Box 1450 Alexandria, VA 22313-1450 on 11-26-07 (Date)

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Terry Lakin

Signature: Terry Lakin

BRIEF ON APPEAL

Hon. Commissioner of Patents and Trademarks
Alexandria, VA 22313

Dear Board:

This is an amended appeal in response to the Notice of Non-Compliant Appeal mailed from the Patent Office on November 13, 2007. The appeal is based from the Final Rejection dated May 31st, 2007 for the above identified application. Appellant initiates this appeal under 37 C.F.R. § 41.31

REAL PARTY IN INTEREST

The real party(ies) in interest of this appeal is Alexei Borisovich Bogatyrev, the named and the above-captioned inventor.

RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellant, to Appellant's legal representative or to an assignee which will directly affect, be directly affected by or have a bearing on the Board's decision in this pending appeal.

STATUS OF CLAIMS

At present, Claims 2-11 are the claims rejected for purposes of the Appeal. Claim 1 was previously cancelled and it is not under consideration in this Appeal.

STATEMENT OF AMENDMENTS

Appellant filed a Supplemental Amendment in which no advisory action is received. The supplemental amendment amended the claims to overcome improper phraseology.

SUMMARY OF CLAIMED SUBJECT MATTER

The device for banding stacks of bank notes according to the present invention comprises a body 1 and a container 2, having a box-like structure, opened in the bottom. Packing material in the form of flattened paper rings 3 is stacked in the container.

The device for feeding the packing material is comprised of an element 4 with a pick-up

unit in the form of a roller 5, on the outer surface of which is reeled an adhesive tape. The adhesive layer faces outwards.

The mechanism of displacement of the element with the roller 5 comprises an arm 6 mounted on an axis 7. The arm 6 is firmly coupled with the element 4. The element for arranging the stack of bank notes is positioned in such a way to deform the notes relative to the longitudinal axis. In the specific embodiment, it is made in the form of a tubular casing 8, which converges from the inlet 9 to the outlet 10. The tubular casing 8 has a side cut 11 along its full length from the inlet 9 to the outlet 10. The tubular casing 8 is equipped with a sensor for defining the position of the stack of bank notes. An arm 12 that rotates relative to the axis 13 is coupled to a mechanism for displacing the element 4 with the roller 5 by means of a mechanic gear, which comprises a pressure element 12, installed on the axis 13, and a spring-loaded plate 15, attached to the arm 6. The return of the arm 6 to the original position is provided with the help of a spring 16. In the lower part of the container 2, on the edges of its outlet, are placed the 18.

In operation, the present invention consists of a stack 17 of bank notes that is fed through the inlet 9 of the tubular casing 8, which has relatively larger proportions in comparison to the outlet 10. The stack 17 of bank notes is deformed (refer to Fig. 2), and its ends come out from the outlet 10 of the tubular casing 8. Movement inside the tubular casing 8 causes the stack 17 of bank notes to press the sensor for defining the position of the stack of notes, the sensor having an arm 12 that rotates relative to the axis 13. The pressure element 14 then turns and presses the spring plate 15, which is attached to the arm 6. The arm 6 turns downward relative to the horizontal axis 7, and together with it turns the element 4 with the roller 5. If a stack of bank notes is not available inside the tubular casing 8, the spring 16 adjusts to the lower of the rings 3

positioned in the container 2. When the roller 5 moves downwards, turning with the element 4 and the arm 6 relative to the axis 7, it drags the ring 3 by means of the adhesive tape layered on the outward surface. The ring converts from its flattened condition inside the container to an unfolded state (refer to Fib. 5), and it is restrained in this state owing to the fact that the upper part of the ring is held by the rests 18 while the lower part of the ring is pulled down by the roller. At this time, the stack 17 of bank notes, which came out from the outlet 10 of the tubular casing 8, forms into the ring 3. The stack of bank notes is removed from the ring 3 to the right through the cut 11 in the tubular casing 8 (refer to Figs. 1, 2 and 5).

The ring 3 stays on the stack of bank notes and bands the stack tightly. The device returns to the original position with the help of the spring 16. The device is then ready to band the next stack of bank notes. The procedure of first feeding the stack of bank notes in the tubular casing 8, and then removing the stack from the tubular casing through the cut 11, can be effected manually or it can be automated with the help of a simple mechanism.

Mapping of Independent Claims:

3. A device for banding stacks of bank notes comprising:

a body;	The device for banding stacks of bank notes according to the present invention comprises a body 1 (Pg. 7, lines 2-3)
a container for packing material having a box-like structure;	and a container, having a box-like structure, opened in the bottom (Pg. 7, lines 3-4)

a means for feeding said packing material; and,	The device for feeding the packing material is comprised of an element 4 with a pick-up unit in the form of a roller 5, on the outer surface of which is reeled an adhesive tape (Page 7, lines 6-8).
an element for arranging said stacks of bank notes.	The element for arranging the stack of bank notes is positioned in such a way to deform the notes relative to the longitudinal axis (Pg. 7, lines 11-12).

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The art Examiner relies upon the following references for the bases of various rejections:

U.S. Pat. No. 3,186,333 to Hoffman et al. Teaches a rubber band stretching apparatus that stores a plurality of rubber bands that are sequentially separated to snap around an article inserted within them; and,

U.S. Pat. No. 3,448,557 to Swaithes teaches a machine to facilitate a folding of a garment on a board and a separation of a bag from a stack, wherein an open end of the bag moves over the garment such that it can be inserted therein.

In the Final Office Action dated of May 31st, 2007, Examiner rejected Claims 3-9 under 35 USC § 102(b) as being unpatentable over U.S. Pat No. 3,186,333 to Hoffman and Claims 2, 3 and 5-11 as being unpatentable over U.S. Pat. No. 3,448,557 to Swaithes.

ARGUMENT

Rejections Under 35 U.S.C. § 102(b)

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly described or inherently described, in a reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Examiner rejected Claims 3-9 under 35 USC § 102(b) as being unpatentable over U.S. Pat No. 3,186,333 to Hoffman.

With respect to Independent Claim 3, Appellant contends that Hoffman fails to teach every element of the claim. Appellant contends that an element to *arrange* an article is not taught in Hoffman. Hoffman firstly suggests an automatic or a conveyer means to feed a garment article into a central opening where it is to be wrapped (col. 1, lines 62-65). In fact, Hoffman teaches a device to *sequentially separate* rubber bands so that they can be individually snapped around an article. It does not teach an element or a means to arrange any article.

Examiner argues that an element to arrange a stack of bank notes is given no weight because it is in the Preamble. Appellant disagrees. Appellant directs Examiner away from the recitation to “stack of banknotes” and to the recitation for “an element to arrange” that article in which this invention is directed to band.

Appellant further contends that no such container, especially a box-like one, is taught nor suggested in Hoffman. The feed chute 38 that stores and supports tubes of rubber bands 12 (col. 5, ll. 57-58) is not a box-like container (FIGs. 8 and 9). The feed chute is rather curved and generally vertical in shape (col. 1, ll. 42-45) so that it can store one or more tubular rubber band assemblies (FIG. 2). The feed chute is of generally oval outline to conform to the cross sectional configuration of the tubular assemblies (col. 2, ll. 31-34). Appellant contends that this description

teaches away from a box-like container. In fact, a chute is a passage or a channel in which Hoffman's article passes. By definition, a chute is not a container. Appellant contends that the foregoing support a contention that Hoffman cannot be used as a reference to anticipate Independent Claim 1.

With respect to Claim 4, Appellant contends that the packing material in Hoffman, i.e., the rubber bands, is not stacked in a flattened position. The packing material is rubber bands supplied in tubular form (FIG. 2). The tube of rubber bands 12 comprises an elongated aggregation of bands which are oval in shape. Appellant contends that the aggregation of rubber bands are not flat. The limitation in Claim 4 is not anticipated.

With respect to Claims 6-9, Appellant contends that these claims further limit the element to arrange the articles claimed in base Claim 3. As articulated in support of Claim 3, an element to arrange the articles bound by the rubber band is not taught nor suggested in Hoffman. Because this element is not taught, all of claims 6-9 cannot be anticipated.

With respect to Claim 5, it incorporates the limitations of the claim on which it depends and, as such, it is allowable for at least the reasons set forth for the corresponding independent claim. Thus, as Independent Claim 1 is allowable, dependent Claim 5 is also allowable. Withdrawal of the rejections are respectfully requested.

Examiner rejected Claims 2, 3 and 5-11 under 35 USC § 102(b) as being unpatentable over U.S. Pat. No. 3,448,557 to Swaithes.

With respect to Independent Claim 3, Examiner cites an element 76 to arrange articles in the Swaithes reference; however, Appellant contends that bag-transporting fingers 76 is not an element

to feed an article (i.e., banking notes, a garment, etc.), but it is rather an element to feed packing material. The bag transporting fingers is an element to transport the article of a bag (col. 4, ll. 32-33) from a stack, wherein the bag moves over the garment such that it can be inserted therein.

The Swaithes reference is in an entirely different field of endeavor than that of Appellant's reference. It does not disclose every limitation recited in the Claim. It specifically does not teach an element to arrange a stack of articles. For this reason, Appellant submits that Swaithes cannot be used as a reference to anticipate the Claim.

Because Swaithes is improperly used as a reference to anticipate Independent Claim 3, Appellant contends that it cannot be used to anticipate all of the dependent claims that depend from the base claim.

Accordingly, a reversal of Examiner's rejections by the honorable Board of Appeals is respectfully solicited.

Respectfully submitted,

John D. Gugliotta, Esq.

Registration No. 36,538

Agent for Appellant

430 White Pond Drive, Suite 200

Akron, OH 44320

Ph: (330) 253-5678

Facsimile (330) 253-6658

CLAIMS APPENDIX

The claims on appeal are as follows:

2. The device for banding stacks of bank notes of Claim 1, wherein said element for arranging said stack of bank notes, having a tubular casing, converges from an inlet to an outlet and comprises of a side cut along its full length.

3. A device for banding stacks of bank notes comprising:
 - a body;
 - a container for packing material having a box-like structure;
 - a means for feeding said packing material;and,
 - an element for arranging said stacks of bank notes.

4. The device for banding stacks of bank notes of Claim 3, wherein said packing material is band rings stacked in a flattened condition.

5. The device for banding stacks of bank notes of Claim 3, wherein said means for feeding said packing material comprises of an element provided with both a pick-up unit and a mechanism for the displacement thereof.

6. The device for banding stacks of bank notes of Claim 3, wherein said element for arranging

said stack of bank notes deforms said stack of bank notes along the longitudinal axis.

7. The device for banding stacks of bank notes of Claim 6, wherein said element for arranging said stack of bank notes comprises a sensor for defining the position of said stack.

8. The device for banding stacks of bank notes of Claim 3, wherein said element for arranging said stack of bank notes is coupled to said displacement mechanism and said pick-up unit.

9. The device for banding stacks of bank notes of Claim 3, wherein said element for arranging said stack of bank notes and said container for packing material are mounted to said body in such a way that said deformed stack of bank notes is introduced in a ring taken from said container.

10. The device for banding stacks of bank notes of Claim 2,
wherein said stack of banknotes is deformed with the motion of said tubular casing.

11. The device for banding stacks of bank notes of Claim 2,
wherein said stack of banknotes is removed through said side cut.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDING

None.